



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

Paper No. 17

**RECEIVED**

JUN 04 2004

**OFFICE OF PETITIONS**

EVENSON MCKEOWN EDWARDS & LENEHAN PLLC  
SUITE 700  
1200 G ST NW  
WASHINGTON DC 20005

**COPY MAILED**

MAY 24 2004

**OFFICE OF PETITIONS**

In re Application of :  
Horii, et al. :  
Application No. 09/735,548 :  
Filed: December 14, 2000 :  
Attorney Docket No. 381NT/49487 :  
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 8, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." There is no fee for the renewed petition. This is **not** a final agency decision within the meaning of 5 USC 704.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed January 16, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 17, 2003. A Notice of Abandonment was mailed on October 20, 2003.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d).

The instant petition lacks item (1), the required reply.

With the instant petition, petitioner filed an amendment in reply to the final Office action. However, the examiner has determined that the amendment did not *prima facie* place the application in condition for allowance. On renewed petition, petitioner must submit a proper reply in response to the final Office action. The proposed reply to a final Office action required for consideration of a petition to revive must be either (1) a Notice of Appeal (and fee required by law); (2) an amendment that *prima facie* places the application in condition for allowance; (3) the filing of a continuing application under 37 CFR 1.53(b) or if applicable, 1.53(d); or (4) a request for a continuing examination (RCE) under 37 CFR 1.114.

The person signing the instant petition also requests a change of correspondence address to the address given in the instant petition. There is, however, no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

By FAX: (703) 872-9306  
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0272.

*Cliff Congo*

Cliff Congo  
Petitions Attorney  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

cc: Crowell & Moring LLP  
Intellectual Property Group  
PO Box 14300  
Washington, DC 20044-4300